

RECEIVED

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

JAN 20 1995

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of

Amendment of Parts 73 and 74 of  
the Commission's Rules to permit  
unattended operation of broadcast  
stations and to update broadcast  
station transmitter control and  
monitoring requirements.

MM Docket No. 94-130

TO: The Commission

DOCKET FILE COPY ORIGINAL

COMMENTS OF  
EQUITY ONE MEDIA PARTNERS

Comes now Equity One Media Partners, ("Equity One"), licensee of radio stations WSDM-AM/FM, Brazil, Indiana, and submits its Comments in response to the Notice of Proposed Rule Making released in the captioned proceeding December 7, 1994. In general, Equity One supports the changes proposed by the Commission in the NPRM and more specifically sets forth hereinafter its comments responsive thereto.<sup>1</sup>

Section 318 of the Communications Act of 1934, as amended, (47 U.S.C. 318) required that stations engaged in broadcasting could be operated only by a person holding an operator's license and that no person could operate broadcasting apparatus except under and in accordance with an operator's license issued to him by the Commission. That section was amended by Section 205(1) of the Telecommunications Authorization Act of 1992, Public Law No. 102-

<sup>1</sup> These comments relate primarily to radio stations.

No. of Copies rec'd  
List A B C D E

CH 9

538, 106 Stat., 3533, to the extent that the Commission was afforded the option to waive or modify the requirement that operators of broadcast stations were required to maintain licenses issued by the Commission. In order to inquire into the public interest considerations involved in waiver of the duty operator's license requirement for stations in the broadcast service, the Commission issued the captioned NPRM, setting forth certain proposals for consideration, particularly relating to the need for (a) retention of the licensing requirement for operators of broadcast transmitters and (b) the wisdom of dispensing with the duty operator at a broadcast transmitter, at a remote control point, or at an automatic transmission system (ATS) monitor, alarm or automatic deactivation point.

In 1981 the Commission revised regulations so as to no longer require a duty operator at broadcast stations to hold a Radiotelephone First Class Operator License or Radiotelephone Third Class Operator License with Broadcast Endorsement, and instead, required that operators hold only the Restricted Radiotelephone Operator Permit which mandated that the licensee ". . . ensure that each transmitter operator is fully instructed and capable to perform all necessary observations and adjustments of the transmitting system and other associated operating duties to ensure compliance with the rules and station authorization".<sup>2</sup> The Restricted Radiotelephone Operator Permit (RP) could be secured

---

<sup>2</sup> §73.1860(c).

without examination and came to be known in the trade as "the babysitter's license".

The 1981 change did not affect the licensee's ultimate responsibility for operation of his station, and the buck still stopped (and stops) with him. Nor does the NPRM alter that responsibility.

A cursory examination of Commission files reveals no widespread violation of operational rules that could be attributed to the Restricted Radiotelephone Operator Permit. Indeed, the preponderance of violations since adoption of the RP may be attributed to management acts or omissions, rather than the inability of duty operators to comply with existing regulations. Rule violations such as overpower operation, operation with full daytime power during the nighttime hours, EBS deficiencies, lack of protective fences around AM towers, failure to maintain required tower lighting, failure to have required indicating instruments, failure to secure remote control authority, and the like are not attributable to duty operators, but rather to management decisions. The Commission has at least tacitly recognized this distinction by the size of Notices of Apparent Liability (NAL).<sup>3</sup>

Despite the unparalleled increase in the number of radio stations over the past twenty years, the Commission has reduced the licensing requirements for duty operator licenses, and the present

---

<sup>3</sup> NAL \$20,000 for failure to reduce power during nighttime hours (KURS, Chula Vista, CA); NAL \$10,000 KDKO-FM, Littleton, CO for failure to change to nighttime power and nighttime DA.

NPRM is yet another step in the direction of lessening the once-stringent requirements for operators. Undoubtedly this is attributable in large measure to the technical improvement in equipment, both for stabilization of radio transmitters and for more accurate rendition of operating parameters and the control thereof by relatively fail-safe equipment at remote control points or automatic transmission system monitoring points.

Obviously, the objective of the Commission in this proceeding is to ensure that a broadcast licensee operates in strict accord with its authorization. Whether this is accomplished by a hands-on operator (with or without a Commission license) or by an automatic system should be of no serious concern to the Commission, so long as they are equally adept at detecting and providing means correcting a deviation from operating parameters. Basically, the Commission's only concern should be that a broadcast licensee adheres to its license, whether through supervision by the holder of a Radiotelephone First Class Operator License, a Radiotelephone Third Class Operator License with Broadcast Endorsement, or a Restricted Radiotelephone Operator Permit, or by competent and conscientious personnel holding no authorization. The NPRM has now sought comments on the alternative of an electronic-mechanical system that will either correct discrepancies or discontinue operation of the transmitter.

In response, the Commission is urged to conclude that if state-of-the-art ATS monitoring equipment is available and can provide reliable assurance that a broadcast transmitter is

performing in accord with its licensed parameters, it should be recognized by the Commission as a substitute for "human control" of broadcast transmitting equipment. Such recognition will require a factual determination or conclusion by the Commission, e.g., that equipment or an equipment system is sufficiently sophisticated and reliable to ensure compliance with Commission rules and licenses. In this connection, two courses are apparently open to the Commission: either reliance upon equipment manufacturers representations and users confirmation of the availability and performance of automation equipment, or the establishment of a type-approval/type-acceptance program as is presently in effect for transmitters and other equipment used by various services administered by the Commission.

Adoption of a type-approved/type-acceptance or certification program with standards to be met would understandably entail additional personnel at the Commission's Laboratory, added expense and more paperwork. In addition, delays in the adoption of standards and testing and approval of individual equipment systems would be involved with resulting disservice of the public interest. The more expedient avenue is for the Commission to permit the use of commercially available ATS systems by licensees, especially since the licensee - and not the ATS equipment - is ultimately responsible for compliance with the terms of a station's license.

The standards now in effect for monitoring transmitter operation, i.e., that applicants for the Restricted Radiotelephone Operator Permit be able to keep a rough-written log, are familiar

with applicable treaties, laws, rules and regulations governing the radio stations they will operate, that they are legally eligible for employment in the United States, are undoubtedly more honored in the breach than in the observance. No test is required and the mere assertion of compliance is accepted. The authority of the vast majority of duty operators is limited to "if the meter goes off scale, push the red button." If the Commission finds such ability acceptable in a duty operator, should it not also accept an ATS system that can perform the same basic function? In its NPRM, the Commission has inquired as to the acceptability of ATS systems that monitor FM or non-directional AM stations on the one hand, and directional AM arrays on the other. This distinction is one of degree only and not of principle. There can be no dispute that an ATS system for monitoring a non-directional AM or FM station need not be so sophisticated as a system to detect differences in the parameters of a multi-towered AM facility with a "tight" pattern. The single-tower one-antenna array presents an easy case for the Commission, and the likelihood of strict compliance with Commission rules and license conditions is relatively easy. On the other hand, a multi-tower array presents an ATS challenge that requires a relatively high degree of sophistication, and the Commission has every right to require the licensee of a directional antenna to install an ATS system responsive to all deviations from licensed values.

Too, the NPRM seeks comments regarding the installation of an ATS system that would report to a human engineer that a discrepancy

exists with respect to a transmitting parameter that would not result in interference to other stations and could be corrected over a relatively long period of time. The Commission should adopt rules that will permit use of such a system by any station opting to do so. In the case of change of parameters that would result in interference to other stations (off-frequency operation, change of phase currents, etc.), automatic correction or disabling of the transmitter should be required immediately, or as the Commission proposes, within three minutes. Again, this is a matter to be accomplished by the development of ATS equipment (or installation of equipment that has been developed) capable of detecting and correcting divergence from licensed values.<sup>4</sup>

The use of automated equipment to control broadcast transmitters must in the last analysis be adjudged as to whether of such equipment can perform the tasks now delegated to "duty operations." If state-of-the-art ATS devices can reliably monitor a station to determine compliance with license values, and take action if a variance occurs, then it should be permitted to be used. Whether a ATS system can in fact so perform is the big question. The Commission can either trust manufacturer's representations, or it can test and approve. Since the licensee is responsible for his station's operation, the Commission should

---

<sup>4</sup> In the NPRM, the Commission mentioned automatic warning devices for tower outlights. The attached advertisement from Mobile Radio Technology January 1995 shows that tower light monitoring equipment is readily available for broadcast and other licensees.

trust him to use ATS equipment that will do the job. If the licensee does not provide satisfactory equipment, he does so at his peril.

#### **Conclusion**

In response to the Notice of Proposed Rule Making, it is respectfully requested that the Commission take the following action:

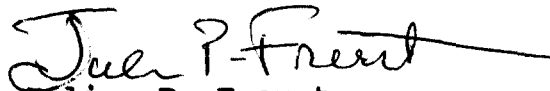
1. Eliminate the requirement that duty operators obtain and maintain a Restricted Radiotelephone Operator Permit, as unnecessary and burdensome upon both the Commission and duty operators.

2. Eliminate the requirement contained in Section 73.1860 of the rules that broadcast station operation be monitored by a duty operator, and give licensee the option of having a duty operator monitor the transmitter, or installing a state-of-the-art automatic transmission monitoring system, which (a) within a period of two hours either notifies a responsible individual upon change of licensed operating parameters that do not or are not likely to cause interference to other stations; or corrects such discrepancies without intervention of operating personnel; and (b) in the case of a deviation from operating parameters that causes



interference or is likely to cause interference, the automatic system will correct such deviation within three minutes, or shut down the transmitter.

Respectfully submitted,

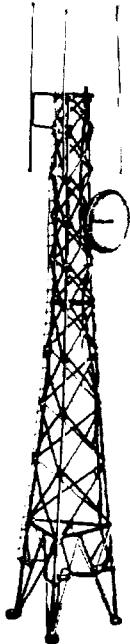
A handwritten signature in dark ink, appearing to read "Julian P. Freret", with a long horizontal flourish extending to the right.

Julian P. Freret  
Counsel for Equity One  
Media Partners

BOOTH, FRERET & IMLAY  
1233 20th Street, N. W.  
Suite 204  
Washington, D. C. 20036  
(202) 296-9100

January 20, 1995

## TOWER LITE OUT?



Don't worry...  
The Bramco  
Tower Lite  
Monitor  
Will Phone You  
and  
Tell You About It!  
  
Signaling and  
Control Is  
Our Business.

REEDS and  
FILTERS for  
PAGERS

**Bramco, Inc.** 513-773-6255  
Piqua, OH Fax: 773-8003

Circle (76) on Fast Fact Card

## CRYSTALS & PARTS

1300+ FREQS OF TOP QUALITY FULLY AGED CRYSTALS AT YOUR DOOR OVERNITE  
COMPETITIVE PRICES ♦ LIFETIME WARRANTY ♦ HASSLE-FREE REPLACEMENT

## CRYSTRONICS

FOR YOUR PARTS AND ACCESSORY NEEDS WE PRESENT OUR NEW DIVISION...

## PAGER PARTS UNLIMITED

VIB MOTORS FOR ALL PAGERS. LCD'S FOR BRAVO, PLUS & EXPRESS PAGERS. 28 ATTRACTIVE COLORS IN HIGH QUALITY POLYCARBONATE HOUSINGS, HOLSTERS, CLIPS, SWITCHES AND BATTERY COVERS. 7 ATTRACTIVE COLORS IN VINYL CASES. ALL THIS FROM THE PEOPLE THAT BROUGHT YOU QUALITY, SERVICE AND AVAILABILITY.

PH: (305) 566-6949 ♦ FAX: (305) 566-5971

**HEAT TREATING**

Circle (75) on Fast Fact Card

WE BUY  
AND SELL  
USED  
MOTOROLA  
AND  
GE  
FM  
TWO-WAY  
RADIOS  
  
SCHAEFF  
RADIO JO.

40 West  
Fayette St.  
P.O. Box 395  
Denver, IA  
50622  
PHONE:  
(319) 984-6115  
FAX:  
(319) 984-6220

- 6 ea. Maxtrac, 800 MHz, D35MWA5G3AK
- 7 ea. Maxtrac, 800 MHz, D35MQA5G55K
- 3 ea. GE TMX6615, 800 MHz
- 21 ea. Syntor X 9000, 460 MHz, T74KEJ710
- 38 ea. Syntor X 8000, 460 MHz, T34KEJ710
- 36 ea. Spectra, 460 MHz, D44KA710
- 14 ea. Maxar 80, 460 MHz, D34TSA000
- 2 ea. Apco Portables, 460 MHz, T4ESN3150SP
- 3 ea. GE Phoenix-SX, 460 MHz, T5A11
- 4 ea. GE Custom MVP, 460 MHz, CT55AAU88A
- 2 ea. Kenwood, 460 MHz, T40D1-S
- 10 ea. MX340, 460 MHz, T44AU3140
- 11 ea. MT500, 460 MHz, T348BU3124
- 30 ea. Syntor, 155 MHz, T83SRA3200
- 48 ea. Mitrek, 155 MHz, T83JJA3200
- 6 ea. Mitrek, 155 MHz, T43JJA3000
- 18 ea. Micor, 155 MHz, T73RTN3100
- 5 ea. Maxtrac, 155 MHz, D63TSA3300
- 4 ea. MT500, 155 MHz, T44AU3140
- 2 ea. Micor Bases, 47 MHz, C71RTB3106
- 4 ea. Maxtrac, 47 MHz, T81XTA7A7BK
- 4 ea. Mitrek, 47 MHz, T81JJA4000
- 4 ea. Mitrek, 48 MHz, T51JJA4900
- 5 ea. Micor, 47 MHz, T71RTN3100
- 8 ea. MT500, 47 MHz, H318BU3100
- 2 ea. GE Custom MVP, 47 MHz, CT54AAU33A
- 1 ea. Micor Base, 37 MHz, C71RCB1145A
- 15 ea. Mitrek, 37 MHz, T81JJA4000
- 75 ea. Mocom 70, 37 MHz, T518BN1100
- 20 ea. Tone Remote Consoles, T1604M
- 60 ea. Tone and DC Remote Desk Sets
- Mixed Models: T1926, T1340, T1902
- 27 ea. Local Control Desk Sets, T1370
- 67 ea. Syntor X 9000 Control Heads, HCN1033A
- 4 ea. CENTRACOM I Single Bay Tone Remote
- NCH WATER Modules
- 5 ea. Centracom Empty Cabinets
- 2 ea. "DVP" Code Programmers, P1001BX
- 25 Sets Motrac Accessories
- 26 ea. GE MASTR PRO 6 ft. Indoor Cabinets
- 68 ea. GE PE 3 Hr. Chrgs., 3613AIX
- 12 ea. GE PE 14 Hr. Chrgs., 3511AIX
- 14 ea. HT220 Slimline Rapid Chrgs., NLN6895
- 18 ea. MT500 Slimline Rapid Chrgs., NLN4565
- 15 ea. HT220 Omni Std. Chrgs., NLN6804
- 13 ea. MT500 Omni Std. Chrgs., NLN4561
- 10 ea. MT500 Omni Vehicular Chrgs., NLN6892

## USED 2-WAY RADIOS

Call Sid Cohen  
at AIR COMM—Phoenix, AZ  
(602) 275-4505 • Fax (602) 275-4555  
30%-70% savings on Motorola, GE, EFJ mobiles,  
base stations, portables, pagers, repeaters—  
primarily solid state—all frequency bands. Also,  
accessory items: Motorola "Systems 90" control  
heads. PL and paging reeds, channel ele-  
ments. Cash quotations made for  
purchase of above equipment.  
**AIR COMM**  
461 E. McDowell Rd.  
Phoenix, AZ 85008

Sharp  
COMMUNICATION  
Distribution Center

WHOLESALE PRICES  
DEPENDABLE SERVICE



Authorized Distributor  
Mobile Communications

CONVENTIONAL  
& GE-MARC  
• Mobiles  
• Portables  
• Accessories

RFI Connectors  
TELEWAVE Site Management  
SAMLEX Power Supplies  
WHELEN Safety Signals

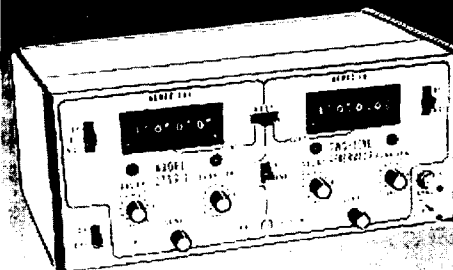
2-WAY SALES TO RADIO DEALERS ONLY

Order Today! 1-800-548-2484 Ship Today!

FAX: 205-539-1663

Circle (78) on Fast Fact Card

## Used... AIE 2TSG-1 Tone Generators



Full Calibration  
1 Day Warranty

Phone (800) 288-8223

**COMMUNICATION  
INSTRUMENTS**

1714 SW 23rd Street, Loveland, CO 80537